

**Manatee Protection Plan Review Committee (MPPRC)
Minutes of October 9, 2009 Meeting**

Committee Attendees: Brett Bibeau; Richard Bunnell; T. Spencer Crowley III; David Gardner; Lynda Green; Mark Lewis; Kate Mansfield, Ph.D.; Robert Moser; Manny Prieguez (Chair); Dick Townsend (Vice Chair); Alberto Lamadrid

County Staff Attendees: Lee Hefty (DERM); Susan Markley, Ph.D. (DERM); Craig Grossenbacher (DERM); Molly Messer (DERM); Nancy Revilla (DERM); Forrest Shaw (DERM)

Other Attendees: There were no attendees from the public present at the meeting.

1. Welcome, Introductions and Review of Agenda: A quorum was established. The meeting was called to order by Chair Manny Prieguez at 12:07 PM.

Chair Prieguez started the meeting by passing out a facsimile to the committee sent by Judith Futerfas which she requested be made a part of the minutes for the meeting. This document is incorporated by reference as Attachment A. He then reviewed the tasks for the committee to complete during this meeting.

2. Review of minutes from past meetings: The Chair opened the floor to the review of the minutes from the September 23, September 30 and October 2 Meetings. A motion was made as follows:

Motion Made by: Kate Mansfield, PhD

Seconded by: Lynda Green

"I move that we accept the minutes for the September 23, 2009 meeting."

The Chair opened the floor for discussion and there was none.

The minutes were **approved** with a unanimous vote as follows:

| | | | |
|------------------------------|--------|-----------------------|--------|
| Brett Bibeau | Yes | Richard Bunnell | Yes |
| T. Spencer Crowley, III | Yes | Judith Futerfas | Absent |
| David Gardner | Yes | Lynda Green | Yes |
| Bob Karl | Absent | Alberto Lamadrid | Absent |
| Mark Lewis | Yes | Kate Mansfield, PhD | Yes |
| Robert Moser | Yes | Manny Prieguez, Chair | Yes |
| Richard Townsend, Vice Chair | Yes | Julia Zaias, PhD | Absent |

Alberto Lamadrid arrived after the vote of the first motion. The Chair recognized Mr. Bibeau for a question related to the September 30, 2009 meeting minutes. Mr. Bibeau commented that a document provided by Dr. Zaias responding to his "Data & Analysis" was included in the minutes as Attachment C. He requested that his "Data & Analysis" be attached as well, since her response is related to that document. Mr. Bibeau made a motion as follows:

Motion Made by: Brett Bibeau

Seconded by: David Gardner

"In order to provide the document which 'Attachment C' replies to, add an 'Attachment E' which is my 'Data & Analysis'"

There was no discussion on the proposed changes.

The motion **passed** with a unanimous vote as follows:

| | | | |
|------------------------------|--------|-----------------------|--------|
| Brett Bibeau | Yes | Richard Bunnell | Yes |
| T. Spencer Crowley, III | Yes | Judith Futerfas | Absent |
| David Gardner | Yes | Lynda Green | Yes |
| Bob Karl | Absent | Alberto Lamadrid | Yes |
| Mark Lewis | Yes | Kate Mansfield, PhD | Yes |
| Robert Moser | Yes | Manny Prieguez, Chair | Yes |
| Richard Townsend, Vice Chair | Yes | Julia Zaias, PhD | Absent |

Mr. Bibeau proposed to make the same amendment to the September 23, 2009 minutes. The Chair stated that he wanted to complete the discussion about the September 30, 2009 minutes prior to returning to the previous topic. A motion was made as follows:

Motion Made by: Kate Mansfield, PhD

Seconded by: David Gardner

"I move that they [September 30, 2009 meeting minutes] be passed as amended."

There was no discussion prior to the vote.

The motion **passed** with a unanimous vote as follows:

| | | | |
|------------------------------|--------|-----------------------|--------|
| Brett Bibeau | Yes | Richard Bunnell | Yes |
| T. Spencer Crowley, III | Yes | Judith Futerfas | Absent |
| David Gardner | Yes | Lynda Green | Yes |
| Bob Karl | Absent | Alberto Lamadrid | Yes |
| Mark Lewis | Yes | Kate Mansfield, PhD | Yes |
| Robert Moser | Yes | Manny Prieguez, Chair | Yes |
| Richard Townsend, Vice Chair | Yes | Julia Zaias, PhD | Absent |

Mr. Bibeau asked a question related to Motion Fifteen in the October 2, 2009 minutes, stating that he did not recall that there was an amendment to include Black Point Marina as a cold water aggregation area. Other committee members confirmed that that amendment was made prior to the vote on the motion and that it was adopted.

Motion Made by: Kate Mansfield, PhD

Seconded by: Lynda Green

"I move that we adopt the October 2, 2009 meeting minutes,"

There was no discussion or debate. The motion **passed** with a unanimous vote as follows:

| | | | |
|------------------------------|--------|-----------------------|--------|
| Brett Bibeau | Yes | Richard Bunnell | Yes |
| T. Spencer Crowley, III | Yes | Judith Futerfas | Absent |
| David Gardner | Yes | Lynda Green | Yes |
| Bob Karl | Absent | Alberto Lamadrid | Yes |
| Mark Lewis | Yes | Kate Mansfield, PhD | Yes |
| Robert Moser | Yes | Manny Prieguez, Chair | Yes |
| Richard Townsend, Vice Chair | Yes | Julia Zaias, PhD | Absent |

At the request of Mr. Bibeau, the Chair returned to discussion of the September 23, 2009 minutes. Mr. Bibeau requested that his "Data & Analysis" be attached to this set of minutes in response to an attachment from Dr. Zaias, which he believed to be a response to that document. Dr. Markley clarified that the attachment that is included in the minutes by Dr. Zaias is a proposal that she submitted on that date and not a response to his "Data & Analysis." With this clarification, Mr. Bibeau withdrew his request to include his document in the minutes.

After the minutes were approved, the Chair requested that Dr. Markley briefly discuss the draft report that had been prepared for the committee by DERM staff. The memo form report includes a summary of the Committee activities and procedures. It briefly describes the recommendations the Committee made in a bulleted format, as a general overview. The details of each recommendation are included as an attachment with every motion adopted, along with the respective voting record. A list of Committee members is also included as an attachment.

A discussion occurred related to the process by which the committee recommendations would be brought before the BCC. Dr. Markley provided general guidance about the process; however, she stated that the County Attorney would be involved in determining the exact process that would be required. Mr. Lewis asked if the data that was provided by DERM to the MPPRC would be transmitted at the same time included as an attachment to the MPPRC final report when it is provided to the BCC. Dr. Markley commented that on the advice of the County Attorney, DERM will probably be providing (to the BCC members) the information and data that the ordinance requires to be considered. She further stated that the Commissioners will be provided with DERM's data summary report, the Mote study and other information. Several other questions about how the report and data would be presented to the BCC and the Florida Fish and Wildlife Conservation Commission (FWCC). Dr. Markley reminded the committee that regardless of any BCC action, any changes to the existing MPP would have to be approved by the FWCC and by U.S. Fish & Wildlife Service (FWS).

Dr. Markley provided information about the level of involvement the committee members could have in the BCC process in response to a question by a committee member. She stated that after the Committee has sunset, individual members could appear before the BCC but only as an individual and not as a spokesperson for the committee; however, they could state that they were on the committee and express their own personal opinions.

A committee member recommended that the Commissioners be provided with a copy of the MPP when the recommendations of the committee are provided.

Mr. Bibeau expressed concern about how the motions were summarized in the report, particularly Motion 7 and Motion 9. Dr. Markley clarified that the summary was to provide a brief version of the recommendations for the commissioners or other policy makers, in the style of an "executive summary".

A discussion ensued among several committee members about the report and summarized motions.

Motion made by: Brett Bibeau

Seconded by: Dick Bunnell

"I'll make a motion to delete pages two and three [of the final MPPRC summary report]."

A discussion ensued about the summary and how it could be modified to make it clearer with respect to the summarized motions.

The Chair called the question.

The motion **failed** with a vote of 7 to 4 as follows:

| | | | |
|------------------------------|--------|-----------------------|--------|
| Brett Bibeau | Yes | Richard Bunnell | Yes |
| T. Spencer Crowley, III | No | Judith Futerfas | Absent |
| David Gardner | Yes | Lynda Green | No |
| Bob Karl | Absent | Alberto Lamadrid | Yes |
| Mark Lewis | No | Kate Mansfield, PhD | No |
| Robert Moser | No | Manny Prieguez, Chair | No |
| Richard Townsend, Vice Chair | No | Julia Zaias, PhD | Absent |

Motion Made by: Brett Bibeau

Seconded by: Dick Bunnell

"I move to amend the summary page 2, motion 7...by replacing the summary of motion 7 on page 2, with the actual motion in its entirety."

The motion **passed** with vote of 6 to 5 as follows:

| | | | |
|------------------------------|--------|-----------------------|--------|
| Brett Bibeau | Yes | Richard Bunnell | Yes |
| T. Spencer Crowley, III | Yes | Judith Futerfas | Absent |
| David Gardner | Yes | Lynda Green | No |
| Bob Karl | Absent | Alberto Lamadrid | Yes |
| Mark Lewis | No | Kate Mansfield, PhD | No |
| Robert Moser | Yes | Manny Prieguez, Chair | No |
| Richard Townsend, Vice Chair | No | Julia Zaias, PhD | Absent |

Motion Made by: Mark Lewis

Seconded by: Lynda Green

"I move that the document provided to the committee by staff with the cover memo, Attachment 1 and Attachment 2, be approved as provided by staff with the exception of the motion that just passed a moment ago and with an exception that on pages 2 & 3 of the cover memo, there be a

footer that states that the bullets summarize the language of the motions and that the motions are provided in Attachment 2.”

Mr. Bibeau requested if Mr. Lewis would accept an amendment of his motion to replace the summary of the Motion 9 on page 2 with the actual motion. Mr. Lewis declined the friendly amendment. Dr. Mansfield suggested an amendment to the footnote to add or exchange one of the sentences for ...”the summaries should not be considered exact language of each motion.” Mr. Lewis declined the requested amendment.

Mr. Bibeau requested that Mr. Lewis table his motion so that he could make a motion to change motion 9. Mr. Lewis declined Mr. Bibeau’s request to table the motion.

Additional comments were made by several committee members about the report and the summary of motions. After these comments were made, the Chair called the question.

The motion **passed** with a vote of 10 to 1:

| | | | |
|------------------------------|--------|-----------------------|--------|
| Brett Bibeau | No | Richard Bunnell | Yes |
| T. Spencer Crowley, III | Yes | Judith Futerfas | Absent |
| David Gardner | Yes | Lynda Green | Yes |
| Bob Karl | Absent | Alberto Lamadrid | Yes |
| Mark Lewis | Yes | Kate Mansfield, PhD | Yes |
| Robert Moser | Yes | Manny Prieguez, Chair | Yes |
| Richard Townsend, Vice Chair | Yes | Julia Zaias, PhD | Absent |

3. Public Comment: There was no public comment.

4. Adjourn: After final comments by the committee members and DERM staff, the meeting was adjourned.

Attachment A: Submittal by Judith Futerfas

Attachment A

By Judith Futerfas

10/9/09

At the MPP meeting on 10/2/09 I mentioned that it was interesting to me that at that meeting (10/2/09) the Committee had passed a motion to include in the MPP the most up to date data that we had used (studies, maps, charts, etc.). Discussion on that motion was detailed and included review of which updated and/or new items would be included and where they would be located (as an appendix, within the document, online, etc.). I expressed that this was interesting in light of the fact that at the prior meeting (9/30/09) the Committee had voted to maintain the date of 1984 in the definition for Existing Marine Facility (EMF) and had not included a rolling date as was recommended by DERM.

I had planned to read a note to the Committee suggesting a rolling date of 15 years at the meeting 9/30/09. However, discussion of the EMF definition was dismissed early that meeting (9/30/09) with time concerns as the reason mentioned. This too was an interesting decision because there was mainly one topic that took up the remainder of the regular meeting time. That topic, boat (taxi, other) docks, unlike how marine facilities are defined, is not integral to the functioning of the Plan. Because the definition for EMF was brought up again late at that same meeting I did not read this note in the interest of time. Also, per prior discussion (9/23/09), many members had seemed amenable to DERM's strong recommendation for a rolling date as long as there was both an initial implementation extension (Oct. 2011 was recommended) and a generous timeframe for unforeseen events.

I believe it is extremely important to apply the most current science and knowledge wherever possible and that along with having the most up to date data, maps, studies, etc. on which to base our recommendations that we also have the most up to date information and definition applied to Existing Marine Facility. A rolling date best ensures the application of current knowledge and best facilitates the monitoring of the MPP after this Committee sunsets. On 10/2/09 I read my note regarding the EMF definition. It is underlined below:

DERM staff has strongly advised that they want a rolling date for Marine Facility Siting Criteria. In listening to the discussion 2 meetings ago it seems there were a few facilities that possibly would be affected by this rolling date should it become recommended with this panel's sunset.

However, we have learned that it will take at least a year (probably longer) for review of our recommendations. Also, putting an extension date into the revision should allow facilities ample time to be in compliance.

With this extension date and a rolling date of 15 years I see no reason any facility would not be able to be in compliance with the existing facility definition.

Having a rolling date of 15 years allows for the most current application of science combined with a generous amount of time in consideration of unforeseen circumstances.

DERM staff has strongly recommended a rolling date and they are the experts on this multifaceted subject. I defer to their judgment and suggest that any possible 'harm' from this revision is outweighed by having all facilities maintain required environmental approvals. Also, it is unknown when the next review committee will meet and a rolling date better assures current compliance over the years.